

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 932 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

NAYNABEN KANTILAL TRIVEDI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR SANDEEP N BHATT for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 20/07/1999

ORAL JUDGEMENT

The appellant, by filing this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') has challenged the judgment and award dated December 7, 1988 of Motor Accident Claims Tribunal, Morbi, in claim case No.128/88 by which the tribunal has awarded an amount of Rs.44,600/- as compensation with running interest at the rate of 15% from the date of filing of the application till realization to the respondent No.1 for the injuries sustained by her in the

vehicular accident which took place on November 5, 1988. The appellant in this appeal has challenged only the rate of interest at 15% awarded on the amount of compensation.

2. The accident in question took place on November 5, 1988 at 8.30 p.m. when the respondent No.1-Baby Nayna, who was a minor, was standing with one Chandrikaben Thakker at old S.T. bus stand. At the relevant time, the S.T. bus No.GRQ 9464, driven by the respondent No.2 at a high speed rashly and negligently, dashed with the minor. As a result of the accident, the right leg of the minor was crushed. The minor Nyna was shifted to Dr. Anil Patel's hospital, where she was treated for the injuries on her right leg. The tribunal, on appreciation of evidence, held that respondent No.1, the driver of the S.T. bus was solely negligent in driving the bus and his negligence has caused the accident in question.

3. The tribunal, on appreciation of oral as well as documentary evidence, awarded compensation to the respondent No.1 as follows:

Rs. 21,600/-	: Future economic loss
Rs. 10,000/-	: Pain, shock and sufferings
Rs. 5,000/-	: Expenses on medical treatment
Rs. 2,000/-	: Attendant charges
Rs. 1,000/-	: Conveyance charges
Rs. 5,000/-	: Special compensation as one
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Rs. 44,600/-	
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The tribunal awarded interest at the rate of 15% per annum from the date of filing of the claim petition. if the compensation was paid within 30 days of the receipt of the order and if the appellant failed to deposit the amount within 30 days, he shall have to pay interest at the rate of 18% per annum. The appellant has challenged the award of interest at the rate of 15% by filing this appeal.

4. Learned Advocate for the appellant has vehemently submitted that the tribunal ought to have awarded interest at the rate of 12% on the awarded amount of compensation. The learned Advocate for the appellant relied on decision of this Court in First Appeal No.1110/98 decided on October 15, 1998 (Coram : J M Panchal & M C Patel, JJ.). The Division Bench in the above appeal, reduced the rate of interest from 15% to 12% on the awarded amount of compensation to the claimant

for the accidental injuries sustained by him in the vehicular accident. The learned Advocate placed reliance on a decision in the case of Muthaiah Sekhar v. Nesamony TPT Corporation Ltd. reported in 1998 (7) SCC 39. The Apex Court in the above case awarded additional compensation of Rs.3 lakhs and directed the Insurance Company and the owner and driver of the offending vehicle to pay interest at the rate of 12% from the date of filing of the claim petition till the date of payment.

5. On the other hand, learned Advocate for the respondent submitted that the tribunal had awarded just and adequate compensation to the claimant and thereafter in the facts and circumstances of the case, had awarded 15% interest and therefore, this Court will not interfere with the appeal with regard to award of interest on the amount of compensation. The submission of the learned Advocate for the respondent has no merit. Because in majority of the decisions of the Apex Court and this High Court, the consistent practice is to award interest at the rate of 12% per annum on the amount of compensation to be awarded to the claimant of vehicular accidents.

6. In view of the judgment of the Division Bench rendered in First Appeal No.1110 of 1998 decided on October 15, 1998, the award of interest on the amount of compensation at the rate of 15% if the deposit is deposited within 30 days and if not deposited within 30 days, at the rate of 18%, deserves to be quashed and set aside. The respondent-claimant shall be entitled to interest at the rate of 12% on the amount of compensation from the date of application till realization. If the amount is deposited by the appellant within 30 days, the amount of compensation shall carry interest at the rate of 12% and if the amount is not deposited within 30 days, the amount of compensation shall carry interest at the rate of 15%.

7. With this modification and clarification, the appeal is allowed. The award of the tribunal is modified to the above extent. The amount deposited by the appellant under Section 173 of the Act will be transmitted forthwith to the tribunal. The tribunal shall pass orders of disbursement as per the terms and conditions stated in the impugned judgment and award. No order as to costs.

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msp.